

APPENDIX II-C

RULEMAKING NOTICE FORM

Notice Number _____ Rule Number En 1300

<p>1. Agency Name & Address:</p> <p>Department of Energy 21 South Fruit Street, Suite 10 Concord, NH 03301</p>	<p>2. RSA Authority: <u>RSA 374:34-a, III</u></p> <p>3. Federal Authority: _____</p> <p>4. Type of Action:</p> <p>Adoption <u>X</u></p> <p>Repeal _____</p> <p>Readoption _____</p> <p>Readoption w/amendment _____</p>
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5. Short Title: **En 1300 – Utility Pole Attachment Rules**

6. (a) Summary of what the rule says and of any proposed amendments:

The Department of Energy (Department) intends to adopt new Chapter En 1300 rules regarding utility pole attachments, pursuant to RSA 374:34-a, as amended effective July 1, 2021. The substance of the proposed new rules is the same in most instances as the provisions of Parts Puc 1301, 1302, and 1303 of the existing Chapter Puc 1300 rules of the Public Utilities Commission (PUC), except for the addition of provisions for One-Touch Make-Ready (OTMR) procedures and timelines as required under Senate Bill 88 (2021). Part Puc 1304, which covers dispute resolution and related pole attachment fee rate-setting, will remain with the PUC in an amended version of its Puc 1300 rules. The En 1300 rules, pursuant to the statutory mandate of RSA 374:34-a, provide for the regulation of terms, conditions, rates, and charges for utility pole attachments that are just, reasonable, and in the public interest, by the Department and the PUC rather than by the Federal Communications Commission, under applicable federal law. As noted above, the Department’s new rules effectively incorporate “the provisions of [OTMR] as adopted by the Federal Communications Commission in 47 CFR 1.1411(j),” pursuant to RSA 374:34-a, III, as amended by Senate Bill 88, effective on October 9, 2021.

6. (b) Brief description of the groups affected:

The En 1300 rules affect public utilities and other entities that own or co-own poles, and entities such as telecommunications providers, cable television providers, electric service providers, wireless service providers, information service providers, and municipalities that have facilities attached to such poles and/or that seek such attachments.

6. (c) Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement: **RSA 374:3, RSA 374:34-a, and, with respect to En 1301.02(b), RSA 362:7, I-III and RSA 374:34-a.**

APPENDIX II-C (Continued)

RULEMAKING NOTICE FORM - Page 2

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name: **David K. Wiesner, Esq.** Title: **Legal Director**
Address: **Department of Energy** Phone #: **603-271-6006**
21 South Fruit Street, Suite 10 Fax#: **603-271-1526**
Concord, NH 03301 E-mail: **David.K.Wiesner@energy.nh.gov**
TTY/TDD Access: Relay NH 1-800-735-2964
or dial 711 (in NH)

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **June 21, 2022**

Fax E-mail Other format (specify):

9. Public hearing scheduled for:

Date and Time: **June 10, 2022, at 1:00 p.m. (jointly with PUC)**

Place: **N.H. Public Utilities Commission**
Hearing Room A
21 South Fruit Street
Concord, NH 03301

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant)

FIS # 22:043, dated March 30, 2022

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

The proposed rules do not mandate or assign any new, expanded, or modified programs or responsibilities to any political subdivision of the State of New Hampshire, and therefore do not violate Part I, Article 28-a of the N.H. Constitution by necessitating additional local expenditures by a political subdivision.